

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **VICE CHAIRMAN RON STOKER**, on March 16, 2005 at 8:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Robyn Driscoll (D)
Rep. George Everett (R)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Roger Koopman (R)
Rep. Michael Lange (R)
Rep. Tom McGillvray (R)
Rep. Mark E. Noennig (R)
Rep. Art Noonan (D)
Rep. John Parker (D)
Rep. Jon Sonju (R)
Rep. John Ward (R)
Rep. Bill Wilson (D)
Rep. Jeanne Windham (D)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 423, 2, 199, 3/9/2005
Executive Action: None

HEARING ON SB 423

Sponsor: SEN. JESSE LASLOVICH, SD 43, ANACONDA

Opening Statement by Sponsor:

SEN. JESSE LASLOVICH (D), SD 43, opened the hearing on **SB 423**, Revise ignition interlock laws. **SEN. LASLOVICH** reported that SB 423 was brought at the request of the Department of Justice. He explained the bill to the committee members.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 81}

Proponents' Testimony:

Dean Roberts, Motor Vehicle Division, Montana Department of Transportation (DOT), rose in "wholehearted" support of SB 423.

{Tape: 1; Side: A; Approx. Time Counter: 81 - 90}

Brenda Thompson, Department of Corrections (DOC), rose in support of SB 423 and stated that this bill will assist probation officers and this bill would not prevent felony DUI offenders from receiving their licenses with the permission of their probation officers. **Ms. Thompson** did inform the committee that a notation would be on the offender's drivers license notifying law enforcement of the "special" criteria for the driver.

{Tape: 1; Side: A; Approx. Time Counter: 90 - 116}

Opponents' Testimony:

Peter Merkis, self, rose in opposition to SB 423 and stated that this is just "more bureaucracy" and that if the offender cannot start their vehicle, they will go get another vehicle.

{Tape: 1; Side: A; Approx. Time Counter: 116 - 125}

Vernon Wright, Pastor, Plymouth Congregational Church, rose in opposition to SB 423 and spoke about the Africans who must wear signs around their necks when they violate a law as an example of why he opposed this bill.

{Tape: 1; Side: A; Approx. Time Counter: 125 - 144}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. KOOPMAN spoke to the SENATOR about the standard protocol of officers when they stop a vehicle regarding a license check.

SEN. LASLOVICH replied and then stated that the notation will not appear on the front of the drivers license.

REP. KOOPMAN suggested that there be a "code" that only officers may decipher. **SEN. LASLOVICH** thanked the REPRESENTATIVE for the suggestion.

REP. KOOPMAN continued with his questions to Mr. Roberts regarding the suggestion of a code on the offender's driver license. **Mr. Roberts** agreed that it could be done. They continued their discussion regarding the judge having the discretion for the interlock device to be installed.

REP. SONJU began his questions with Mr. Roberts regarding the number of DUI offenders that would be appropriate for this device. **Mr. Roberts** stated that he would get those numbers for the REPRESENTATIVE. **REP. SONJU** then asked Mr. Roberts about the fiscal note and why the offender couldn't pay for this expense. **Mr. Roberts** stated that the offender does pay a \$100 reinstatement fee that would pay for the fiscal note.

{Tape: 1; Side: A; Approx. Time Counter: 144 - 247}

Closing by Sponsor:

SE. LASLOVICH closed the hearing on SB 423 by stating that he did not sign the fiscal note as this was for people who have been convicted of felony DUI.

{Tape: 1; Side: A; Approx. Time Counter: 247 - 262}

HEARING ON SB 2

Sponsor: **SEN. RICK LAIBLE, SD 44, VICTOR**

Opening Statement by Sponsor:

SEN. RICK LAIBLE (R), SD 44, opened the hearing on **SB 2**, Recognizing authority to display national motto & historical documents. **SEN. LAIBLE** explained SB 2 to the committee members and spoke to them about the handout he distributed to them.

The **SENATOR** stated that the intent of this bill is to "honor history and our culture."

[EXHIBIT\(juh58a01\)](#)

[EXHIBIT\(juh58a02\)](#)

{Tape: 1; Side: A; Approx. Time Counter: 262 - 415}

Proponents' Testimony:

Ed Sperry, American Legion #5, rose in strong support of SB 2 and spoke to the committee about his home in Ravalli County where the incident happened regarding the student and the Boy Scout project regarding, "In God We Trust." **Mr. Sperry** showed the committee members the pictorial matter that is at the base of the controversy.

{Tape: 1; Side: A; Approx. Time Counter: 415 - 484}

Larry Chambers, self, spoke to the committee about the "In God We Trust" language that was introduced in 1864 on the coinage of America. He then stated that in 1957, paper money had the same statement printed on the money.

Mr. Chambers stated that when he was a teacher, there was always a picture that had the motto, "In God We Trust," which had a calming effect on the students. He stated that God needs to be brought back into the schools.

{Tape: 1; Side: A; Approx. Time Counter: 484 - 500}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 37}

Jeanette Zentgraf, Concerned Women of America, rose in support of SB 2 and stated, "...there is no justification for not wanting, 'In God We Trust'...."

{Tape: 1; Side: B; Approx. Time Counter: 37 - 50}

Dallas Erickson, Help for a Moral Environment, rose in support of SB 2 and stated that this is an attempt to hide our history and moral attitudes and that a Baptist Pastor was responsible for the Bill of Rights.

EXHIBIT(juh58a03)

{Tape: 1; Side: B; Approx. Time Counter: 50 - 90}

Merry Nelson, self, rose in support of SB 2.

{Tape: 1; Side: B; Approx. Time Counter: 90 - 109}

Patti Kardade, Concerned Women of America, rose in support of SB 2 and stated the in the preambles of the Montana Constitution are the words, "In God We Trust."

{Tape: 1; Side: B; Approx. Time Counter: 109 - 115}

Jonathon Martin, Constitutional Party of Montana, rose in support and stated, "...a viable government must be underlaid by a religious foundation and that a pluralistic society cannot survive...."

{Tape: 1; Side: B; Approx. Time Counter: 115 - 140}

Terri Paske, self, rose in support of SB 2 and stated that she is the daughter of a WWII veteran, her brothers and husband have been in the military and each one has been sent off with the words, "In God We Trust."

{Tape: 1; Side: B; Approx. Time Counter: 140 - 155}

Rachel Roberts, Montana Family Coalition, rose in support of SB 2 and stated that the motto serves an honorable purpose, etc.

{Tape: 1; Side: B; Approx. Time Counter: 155 - 168}

David McVeda, self, rose in support of SB 2 and stated, "...without the belief of the founding fathers, we would not be here...."

{Tape: 1; Side: B; Approx. Time Counter: 168 - 181}

Jacque Trude, self, rose in support of SB 2.

{Tape: 1; Side: B; Approx. Time Counter: 181 - 184}

Maryetta Glaze, self, rose in support of SB 2 and referred to Article 1, Section 5 in her statement.

{Tape: 1; Side: B; Approx. Time Counter: 184 - 196}

Harris Himes, Montana Family Coalition, rose in support of SB 2 and spoke of the former President Reagan's statement, "If we are not a nation under God, we are a nation judged by God."

{Tape: 1; Side: B; Approx. Time Counter: 196 - 201}

Gilda Clancy, Montana Eagle Forum, rose in support of SB 2 and spoke about the "pots of gold and ten crosses" analogy.

{Tape: 1; Side: B; Approx. Time Counter: 201 - 231}

Wayne Berry, self, rose in support of SB 2 and stated, "...[he was] sad that society had changed so much...."

{Tape: 1; Side: B; Approx. Time Counter: 231 - 238}

Bruceen Fleenor, self, rose in support of SB 2.

{Tape: 1; Side: B; Approx. Time Counter: 238 - 246}

David Seiler, self, stated, "...[the] Nation will remain strong if 'In God We Trust.'"

{Tape: 1; Side: B; Approx. Time Counter: 246 - 272}

Eric Schiedermayer, Montana Catholic conference, rose in support of SB 2.

{Tape: 1; Side: B; Approx. Time Counter: 272 - 274}

William Rich, retired veteran, rose in support of SB 2 and stated, "...that when [I] was in the war, [I] believed 'In God We Trust'."

{Tape: 1; Side: B; Approx. Time Counter: 274 - 282}

Celeste Jasper, self, was in support and stated that we should celebrate the diversity of, "In God We Trust."

{Tape: 1; Side: B; Approx. Time Counter: 282 - 293}

Phyllis Lamping, self, rose in support of SB 2.

{Tape: 1; Side: B; Approx. Time Counter: 293 - 297}

Bonnie Benjamin, self, rose in support of SB 2 and stated that her family fought for this country.

{Tape: 1; Side: B; Approx. Time Counter: 297 - 311}

Alouise Berry, self, rose in support of SB 2 and stated, "...this is the greatest country in the world due to, 'In God We Trust'."

{Tape: 1; Side: B; Approx. Time Counter: 311 - 318}

Becky Stockton, self, rose in support of SB 2.

{Tape: 1; Side: B; Approx. Time Counter: 318 - 330}

Tyler Stockton, self, rose in support of SB 2.

{Tape: 1; Side: B; Approx. Time Counter: 330 - 334}

Judy Kelly, self, rose in support of SB 2.

{Tape: 1; Side: B; Approx. Time Counter: 334 - 337}

Gordon Rubard, self, rose in support of SB 2.

{Tape: 1; Side: B; Approx. Time Counter: 337 - 343}

Opponents' Testimony:

Scott Crichton, ACLU, spoke in opposition of SB 2 and proceeded to inform the committee that the founders were very clear in the drafting of our constitution, by stating, "...Congress shall make no law...." **Mr. Crichton** continued to speak about the separation of church and state.

In his statements to the committee, **Mr. Crichton** referred to Article 6, Clause 3, whereby, "...No religions shall be required...." He made the suggestion that we change from "In God We Trust," to something that is inclusive of all, such as: "United We Stand" or "Out of Many."

Mr. Crichton spoke of the religious right and what they believe in, the freedom in this country to exercise our own religious freedoms, and that our society has succeeded because of the separation of church and state.

EXHIBIT(juh58a04)

{Tape: 1; Side: B; Approx. Time Counter: 343 - 500}

{Tape: 2; Side: A; Approx. Time Counter: 0 - 61}

Janet Zimmerman, self, spoke to the committee about how the Christian fundamentalist community makes her feel oppressed due to their belief system and that this country was founded on diversity and freedoms. She continued to speak and stated, "...that faith does not depend on a 'In God We Trust' plaque in the classroom."

Ms. Zimmerman reminded the committee to look back when women were the property of their husbands and slavery was legal.

{Tape: 2; Side: A; Approx. Time Counter: 61 - 117}

Kim Abbott, Americorps, rose in opposition to SB 2.

{Tape: 2; Side: A; Approx. Time Counter: 117 - 130}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. CLARK questioned the sponsor about the language on Line 18, "God," and asked the SENATOR if it was the intent of the bill to apply "In God We Trust" to all religions. **SEN. LAIBLE** replied, "Yes" to the REPRESENTATIVE.

REP. KOOPMAN began his questioning of Mr. Crichton by speaking to him about the theory that all rights flow from God, as the REPRESENTATIVE believes. **Mr. Crichton** stated that the Declaration of Independence does mention God; however, it is not a law, even though it is a powerful document. Further, it does not have any power or legality in rights of the people.

Mr. Crichton continued by stating, "...the thrust of the government is upheld by the people, not by religion and all are born with the ability for life, liberty and the pursuit...."

REP. KOOPMAN continued by saying that SB 2 has nothing to do with the law or Christianity; he stated, "...the fundamental teachings are for children to understand that the source of rights are a gift from God...."

The REPRESENTATIVE and Mr. Crichton continued their conversation regarding the use of "In God We Trust," and whether or not it is an inclusive vision with respect to human rights.

REP. CLARK spoke with Ms. Zimmerman about the word God and if as it is written in SB 2, inclusionary to all beliefs. **Ms. Zimmerman** responded that in her opinion, it was not. They continued their conversation as to what would be more inclusive language.

REP. CLARK then began his discussion with Mr. Crichton about the definition of God and if it is written into law, as in SB 2; at which time, **Mr. Crichton** then asked, "...what about the nonbeliever and how would this include them...."

REP. WINDHAM spoke with the SENATOR regarding the language, "may display" in SB 2. **SEN. LAIBLE** explained the situation that happened in Stevensville where the plaque was displayed by a Boy Scout and the threat of a lawsuit for that display.

REP. MCGILLVRAY asked one question of Mr. Crichton. The REPRESENTATIVE asked, "Is it your intention to remove God from any public display?" **Mr. Crichton** replied, "No."
{Tape: 2; Side: A; Approx. Time Counter: 130 - 500}

Closing by Sponsor:

SEN. LAIBLE closed the hearing on SB 2 and spoke again to the committee about the incident in Stevensville. The School Board there decided to continue to display the plaque and that SB 2 has nothing to do with Freedom of Speech. He continued his closing by reading a letter to the committee from an injured Marine.
{Tape: 2; Side: B; Approx. Time Counter: 0 - 85}

HEARING ON SB 199

Sponsor: SEN. KEN TOOLE, SD 41, HELENA

Opening Statement by Sponsor:

SEN. KEN TOOLE (D), SD 41, opened the hearing on **SB 199**, Include sexual orientation in human rights and other law. **SEN. TOOLE** stated, "...this bill is about fair treatment not about sex..."
{Tape: 2; Side: B; Approx. Time Counter: 85 - 154}

Proponents' Testimony:

Vernon Wright, Pastor, Plymouth Congregational Church, rose in support of SB 199 and proceeded to read his testimony to the committee.

EXHIBIT(juh58a05)

{Tape: 2; Side: B; Approx. Time Counter: 154 - 331}

Heidi Kestrel, self, stood in support of SB 199.

{Tape: 2; Side: B; Approx. Time Counter: 331 - 339}

Janet Zimmerman, self, rose in support of SB 199 and spoke of the contradictions in the bible as to, "Judge Not as Ye Shall Be Judged."

{Tape: 2; Side: B; Approx. Time Counter: 339 - 379}

Kim Abbott, self, rose in support of SB 199 and read testimony from Robert Liston from the Montana Fair Housing Authority.

EXHIBIT(juh58a06)

{Tape: 2; Side: B; Approx. Time Counter: 379 - 408}

Karl Olson, PRIDE, rose in support SB 199 and spoke to the committee about the other 15 states that have "sexual orientation" in statutes. **Mr. Olson** spoke to 49-2-101-111, MCA regarding the exemption of employers and 49-2-102-120, MCA.

EXHIBIT(juh58a07)

{Tape: 2; Side: B; Approx. Time Counter: 408 - 500}

Terry Kendrick, Montana Human Rights Network, rose in support of SB 199.

EXHIBIT(juh58a08)

{Tape: 3; Side: A; Approx. Time Counter: 0 - 19}

Francis Clinch, self, rose in support of SB 199 spoke to the committee about her upbringing as a Catholic.

{Tape: 3; Side: A; Approx. Time Counter: 19 - 60}

Becky Convery, attorney, rose in support of SB 199 and provided some statistical figures to the committee.

EXHIBIT(juh58a09)

{Tape: 3; Side: A; Approx. Time Counter: 60 - 94}

Denise Juneau, Montana Human Rights Network, Blackfoot Nation, rose in support of SB 199 and spoke of the discrimination that Native Americans live with.

{Tape: 3; Side: A; Approx. Time Counter: 94 - 141}

Linda Gryczan, Montana Women's Lobby, rose in support of SB 199.

[EXHIBIT\(juh58a10\)](#)

{Tape: 3; Side: A; Approx. Time Counter: 141 - 142}

Cindy Otter, Montana Association of Social Workers, rose in support of SB 199.

[EXHIBIT\(juh58a11\)](#)

{Tape: 3; Side: A; Approx. Time Counter: 142 - 155}

Don Judge, Teamsters 190, Montana Progressive Labor Caucus, rose in support of SB 199.

[EXHIBIT\(juh58a12\)](#)

{Tape: 3; Side: A; Approx. Time Counter: 155 - 168}

Jessica Grennan, Associated Students of the University of Montana, rose in support of SB 199.

[EXHIBIT\(juh58a13\)](#)

{Tape: 3; Side: A; Approx. Time Counter: 168 - 173}

Brad Martin, Montana Democratic Party, rose in support of SB 199.

{Tape: 3; Side: A; Approx. Time Counter: 173 - 189}

Opponents' Testimony:

Ward Wenholtz, rose in opposition to SB 199 and distributed material to the committee.

[EXHIBIT\(juh58a14\)](#)

{Tape: 3; Side: A; Approx. Time Counter: 189 - 227}

Tyler Stockton, self, rose in opposition to SB 199.

[EXHIBIT\(juh58a15\)](#)

{Tape: 3; Side: A; Approx. Time Counter: 227 - 252}

Peter Merkis, self, rose in strong opposition to SB 199 and spoke to the committee of Biblical matters and that if SB 199 were to pass the committee, "...you are going to be in trouble and God will hold you accountable...."

{Tape: 3; Side: A; Approx. Time Counter: 252 - 300}

Gene Williams, self, rose in opposition to SB 199 and stated that he is against any form of discrimination and spoke to the committee about "drag queens" and "french kissing" and the agenda of Gay Rights people to force their agenda on everyone.

[EXHIBIT\(juh58a16\)](#)

{Tape: 3; Side: A; Approx. Time Counter: 300 - 370}

Dallas Erickson, Montana Family Coalition, rose in opposition to SB 199 and spoke of pedophiles and the forcing of Boy Scouts to hire homosexuals.

[EXHIBIT\(juh58a17\)](#)

{Tape: 3; Side: A; Approx. Time Counter: 370 - 500}

{Tape: 3; Side: B; Approx. Time Counter: 0 - 48}

Jeanette Zentgraf, self, rose in opposition to SB 199 and handed in testimony from herself and C. Pomelear.

[EXHIBIT\(juh58a18\)](#)

[EXHIBIT\(juh58a19\)](#)

{Tape: 3; Side: B; Approx. Time Counter: 48 - 115}

Patti Kanduch, Concerned Women of America, stood in opposition to SB 199.

[EXHIBIT\(juh58a20\)](#)

[EXHIBIT\(juh58a21\)](#)

{Tape: 3; Side: B; Approx. Time Counter: 115 - 150}

Eric Schiedermayer, Montana Catholic Conference, rose in opposition to SB 199 and spoke to the committee about the "slippery slope."

{Tape: 3; Side: B; Approx. Time Counter: 50 - 167}

Mr. Culver, self, rose in opposition to SB 199 and stated to the committee that the present law serves the purpose. He further stated that the bill is contradictory about freedom of speech as the Christian Right is being silenced if this bill were to pass.

{Tape: 3; Side: B; Approx. Time Counter: 167 - 214}

Curt Almy, self, rose in opposition to SB 199 and stated that Section 1 is discriminatory as it excludes celibacy as an orientation.

[EXHIBIT\(juh58a22\)](#)

{Tape: 3; Side: B; Approx. Time Counter: 214 - 236}

Jim Jacobsen, self, rose in opposition to SB 199.

{Tape: 3; Side: B; Approx. Time Counter: 236 - 247}

Arvel Seiler, self, American Legion. rose in opposition to SB 199.

{Tape: 3; Side: B; Approx. Time Counter: 247 - 261}

Please Note: As time ran out, numerous people came to the microphone and stated their names. However, the names were undecipherable and inaudible.

Exhibit 23 includes opponents' testimony that were handed to the secretary at the conclusion of the hearing.

EXHIBIT(juh58a23)

{Tape: 3; Side: B; Approx. Time Counter: 261 - 414}

Informational Testimony:

Jerry Keck, Department of labor and Industry, rose to inform the committee that it would be this department that would enforce the statute from SB 199.

{Tape: 3; Side: B; Approx. Time Counter: 414 - 431}

Questions from Committee Members and Responses:

REP. CLARK spoke with Mr. Keck about the enforcement of SB 199 and how it would affect the Boy Scouts and their hiring practices. **Mr. Keck** replied that the Boy Scouts would be exempt due the organization being a private organization. **Mr. Keck** also explained the exemptions for churches.

REP. CLARK turned to the sponsor for an explanation as to the assertions by the opponents that problems do not exist within discrimination for sexual orientation. **SEN. TOOLE** spoke to the committee about all the calls that are received by the Human Rights Network regarding just those types of discrimination.

REP. CLARK continued with questions for Pastor Wright regarding the opponents claims that they will not be able to practice their faith if SB 199 were to pass. **Pastor Wright** stated, "...many things in the Bible are illegal; but we can always practice our religion as long as we do not infringe on other people's rights."

REP. NOONAN questioned the SENATOR about the hiring and firings of Boy Scout leaders as to Section 14. Their discussion also turned toward the exclusionary practices for gender distinction. The parade permit topic was also discussed as to Gay Pride marches versus the Klu Klux Klan parades.

REP. HARRIS asked Mr. Erickson if Section 16 were to be removed if he and his fellow opponents would be amenable to SB 199. **Mr. Erickson** stated that he and the others would be opposed to any law where sexual orientation is in the language. They continued their discussion about the work place and hiring practices.

REP. STOKER spoke with Mr. Erickson, Mr. Himes and Pastor Wright about verses in the Bible from Leviticus regarding sexual orientation, catamites and sodomites.

REP. EVERETT spoke with Dr. Wise about the theory that genetics may determine if a person will be homosexual. Dr. Wise, an internist, cited studies that reveal homosexuality is not genetic.

REP. KOOPMAN spoke with Ms. Zentgraf about the landlord laws in New York that may have reverse discrimination ramifications toward the landlord when a renter is homosexual.

REP. KOOPMAN then spoke with the sponsor about this discussion being "fixated" on sex and that hate speech and/or e-mails should be stopped. **SEN. TOOLE** and **REP. KOOPMAN** continued their discussion on Civil Rights and possible discrimination due to belonging to any certain political party.

REP. NOENNIG spoke with Mr. Keck about the military's use of the "don't ask, don't tell" policy for military participants.

REP. MCGILLVRAY spoke with **SEN. TOOLE** about the language on Page 1, Lines 18-20, and if it had any impact on religious adoption agencies. **Mr. Keck** replied that the language in SB 199 would allow adoption through any religious agency such as Catholic Social Services. They continued to discuss that the State pays for children's placement in possible "gay" homes.

REP. GUTSCHE spoke with Mr. Huff and discussed the Civil Rights law as it pertained to SB 199.

{Tape: 3; Side: B; Approx. Time Counter: 431 - 500}

{Tape: 4; Side: A; Approx. Time Counter: 0 - 300}

Closing by Sponsor:

SEN. TOOLE closed the hearing on SB 199 and stated, "...this bill is about people actions not their thoughts...."

{Tape: 4; Side: A; Approx. Time Counter: 300 - 319}

EXECUTIVE ACTION ON SB 199

Motion: **REP. STOKER** moved that SB 199 BE CONCURRED IN.

Substitute Motion/Vote: **REP. LANGE** made a substitute motion that SB 199 BE TABLED. Substitute motion failed 8-10 by roll call vote with **REP. EVERETT**, **REP. KOOPMAN**, **REP. LANGE**, **REP. MCGILLVRAY**, **REP. RICE**, **REP. SONJU**, **REP. STOKER**, and **REP. WARD** voting aye. (**REPS. CLARK**, **HARRIS**, **PARKER** and **WILSON** voted by proxy vote.)

{Tape: 4; Side: A; Approx. Time Counter: 319 - 350}

ADJOURNMENT

Adjournment: 12:54 P.M.

REP. DIANE RICE, Chairman

PAM SCHINDLER, Secretary

DR/ps

Additional Exhibits:

EXHIBIT ([juh58aad0.TIF](#))